

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

TAYJUAN TREVION-WAYNE FLETCHER

Plaintiff,

V.

JENNIFER REDMAN, et al.,

Defendants.

Case No. 3:24-cv-05216-JHC-TLF

ORDER DIRECTING SERVICE OF
CIVIL RIGHTS COMPLAINT

This is a civil rights action brought pursuant to 42 U.S.C. § 1983. Plaintiff is proceeding with this action *pro se* and *in forma pauperis*. The Court, having reviewed plaintiff's complaint, hereby ORDERS as follows:

(1) Service by Clerk

The Clerk is directed to send the following to defendants by first class mail: a copy of plaintiff's Complaint, a copy of this Order, two copies of the notice of lawsuit and request for waiver of service of summons, a waiver of service of summons, and a return envelope, postage prepaid, addressed to the Clerk's Office. The Clerk shall also send courtesy copies of this Order and the Complaint to the Attorney General of the State of Washington.

(3) Response Required

Defendant(s) shall have **thirty (30) days** within which to return the enclosed waiver of service of summons. A defendant who timely returns the signed waiver shall

1 have **sixty (60) days** after the date designated on the notice of lawsuit to file and serve
2 an answer to the complaint or a motion permitted under Rule 12 of the Federal Rules of
3 Civil Procedure.

4 A defendant who fails to timely return the signed waiver will be personally served
5 with a summons and complaint, and may be required to pay the full costs of such
6 service, pursuant to Rule 4(d)(2) of the Federal Rules of Civil Procedure. A defendant
7 who has been personally served shall file an answer or motion permitted under Rule 12
8 within **twenty-one (21) days** after service.

9 (4) Filing and Service by Parties, Generally

10 All attorneys admitted to practice before this Court are required to file documents
11 electronically via the Court's CM/ECF system. Counsel are directed to the Court's
12 website, www.wawd.uscourts.gov, for a detailed description of the requirements for
13 filing via CM/ECF. All non-attorneys, such as *pro se* parties and/or prisoners, may
14 continue to file a paper original with the Clerk. All filings, whether filed electronically or in
15 traditional paper format, must indicate in the upper right hand corner the name of the
16 magistrate judge to whom the document is directed.

17 Any document filed with the Court must be accompanied by proof that it has
18 been served upon all parties that have entered a notice of appearance in the underlying
19 matter.

20 (5) Motions, Generally

21 Any request for court action shall be set forth in a motion, properly filed and
22 served. Pursuant to LCR 7(b), any argument being offered in support of a motion shall
23 be submitted as a part of the motion itself and not in a separate document. The motion
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1 shall include in its caption (immediately below the title of the motion) a designation of
2 the date the motion is to be noted for consideration upon the Court's motion calendar.

3 Stipulated and agreed motions, motions to file over-length motions or briefs,
4 motions for reconsideration, joint submissions pursuant to the option procedure
5 established in LCR 37(a)(2), motions for default, requests for the clerk to enter default
6 judgment, and motions for the court to enter default judgment where the opposing party
7 has not appeared shall be noted for consideration on the day they are filed. See LCR
8 7(d)(1). All other non-dispositive motions shall be noted for consideration no earlier than
9 the third Friday following filing and service of the motion. See LCR 7(d)(3). All
10 dispositive motions shall be noted for consideration no earlier than the fourth Friday
11 following filing and service of the motion. *Id.*

12 For electronic filers, all briefs and affidavits in opposition to either a dispositive or
13 non-dispositive motion shall be filed and served not later than 11:59 p.m. on the
14 Monday immediately preceding the date designated for consideration of the motion. If a
15 party (i.e. a *pro se* litigant and/or prisoner) files a paper original, that opposition must be
16 received in the Clerk's office by 4:30 p.m. on the Monday preceding the date of
17 consideration.

18 The party making the motion may file and serve, not later than 11:59 p.m. (if filing
19 electronically) or 4:30 p.m. (if filing a paper original with the Clerk's office) on the date
20 designated for consideration of the motion, a reply to the opposing party's briefs and
21 affidavits.

22 (6) Motions to Dismiss and Motions for Summary Judgment

1 Parties filing motions to dismiss pursuant to Rule 12 of the Federal Rules of Civil
2 Procedure and motions for summary judgment pursuant to Rule 56 of the Federal Rules
3 of Civil Procedure should acquaint themselves with those rules. As noted above, these
4 motions shall be noted for consideration no earlier than the fourth Friday following filing
5 and service of the motion.

6 Defendants filing motions to dismiss or motions for summary judgment are
7 advised that they MUST serve a *Rand* and/or *Wyatt* notice concurrently with motions to
8 dismiss and motions for summary judgment so that *pro se* prisoner plaintiffs will have
9 fair, timely and adequate notice of what is required of them in order to oppose those
10 motions. *Woods v. Carey*, 684 F.3d 934, 941 (9th Cir. 2012). The Ninth Circuit has set
11 forth model language for such notices:

12 A motion for summary judgment under Rule 56 of the Federal Rules
13 of Civil Procedure will, if granted, end your case.

14 Rule 56 tells you what you must do in order to oppose a motion for
15 summary judgment. Generally, summary judgment must be granted
16 when there is no genuine issue of material fact – that is, if there is no
17 real dispute about any fact that would affect the result of your case,
18 the party who asked for summary judgment is entitled to judgment
19 as a matter of law, which will end your case. When a party you are
20 suing makes a motion for summary judgment that is properly
21 supported by declarations (or other sworn testimony), you cannot
22 simply rely on what your complaint says. Instead, **you must set out
specific facts in declarations, depositions, answers to
interrogatories, or authenticated documents, as provided in
Rule 56(e), that contradict the facts shown in the defendant's
declarations and documents and show that there is a genuine
issue of material fact for trial. If you do not submit your own
evidence in opposition, summary judgment, if appropriate, may
be entered against you. If summary judgment is granted, your
case will be dismissed and there will be no trial.**

23 *Rand v. Rowland*, 154 F.3d 952, 963 (9th Cir. 1998) (emphasis added); *Wyatt v. Terhune*,
24 315 F.3d 1108 (9th Cir. 2003).

1 Defendants who fail to file and serve the required *Rand* and *Wyatt* notice on
2 plaintiff may have their motion stricken from the Court's calendar with leave to re-file.

3 (7) Direct Communications with District Judge or Magistrate Judge

4 No direct communication is to take place with the District Judge or Magistrate
5 Judge with regard to this case. All relevant information and papers are to be directed to
6 the Clerk.

7 (8) The Clerk is directed to send copies of this Order and of the Court's *pro se*
8 instruction sheet to plaintiff.

9 Dated this 19th day of April, 2024.

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13 Theresa L. Fricke
14 United States Magistrate Judge
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